

REMARKS

SUMMARY

Reconsideration of the application is respectfully requested.

Claims 1-3, 9-12, 14, 15, 18, 20, 23, 26-29, 35, 38-40, 43-46, 50, 53, 56-59, 62, 68, 70, 72, 74, 76-78, 82-86, 88-90, 93, 96 and 99 are in the application.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102

In "Claim Rejections – 35 USC § 102," item 2 on page 2 of the above-identified final Office Action, claims 1-3, 9-12, 14, 18, 20, 23, 26-28, 35, 38-40, 43-46, 50, 53, 56-59, 62, 68-70, 72, 74, 76-78, 82-86, 88-90, 93, 96 and 99 have been rejected as being fully anticipated by U.S. Patent No. 6,127,941 to *Van Ryzin* (hereinafter "VAN RYZIN") under 35 U.S.C. § 102(e). Applicant respectfully traverses.

As will be explained below, it is believed that the claims were patentable over the cited art in their original form and, therefore, the claims were not amended to overcome the references.

To anticipate the instant application VAN RYZIN must teach EVERY element of the claim as indicated in MPEP 2131, specifically "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). In fact MPEP 2131 clarifies that not only must the claim be expressly or inherently described, but adds that "**The identical invention must be shown in as complete detail as is contained in the ... claim.**" *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)(emphasis added). In the instant case, VAN RYZIN fails to teach or suggest the claimed invention "**in as complete detail as is contained in**" the claim limitations. As will be more fully explained below, Van Ryzin does not disclose each and every feature of independent claims 1, 26, 53, 78, and 90.

More specifically, the method of claim 1 in the instant application requires, *inter alia*, that the “controllee electronic apparatus” send the “remote control ... **user interface displays having associated command codes** ... to control the controllee electronic apparatus”. Thus, the claim language of the instant application requires the controllee electronic apparatus to send to the remote control device (a) the user interface (for controlling the controllee electronic apparatus), and (b) associated command codes embedded within the user interface to control the controllee electronic apparatus. **VAN RYZIN** provides neither item (a) nor item (b), as the disclosed transceiver in **VAN RYZIN** is limited to receiving ID codes sent by the multimedia system. Furthermore, **VAN RYZIN actually teaches away from the instant application** as can be seen in the description provided by Col. 5, lines 11-20, where **VAN RYZIN** indicates that an error message is displayed if a device specification corresponding to the received ID code is not found in the cartridge. In contrast, the associated control commands are included with the user interface displays of the instant application, so no such error message can occur.

Before discussing the prior art in more detail, it is believed that a brief review of the invention as currently claimed, would be helpful. Claim 1 calls for, *inter alia*, a method comprising:

sending to a remote control, by a controllee electronic apparatus, a first collection of **user interface displays having associated control commands**, for the remote control to control the controllee electronic apparatus;

receiving **by the controllee electronic apparatus**, first control commands, from said remote control, the first control commands being resulted from said first collection of user interface displays being used by a user of said remote control; and

controlling operation of said controllee electronic apparatus, by said controllee electronic apparatus in accordance with said received first control commands.

Claims 26, 53, 78, and 90 contain similar language.

In contrast, **VAN RYZIN** would retrieve both the **“user interface displays”** and any **associated control commands** from a cartridge attached to the remote control, NOT from the controllee electronic apparatus as recited in claim 1 of the instant application.

The **VAN RYZIN** reference discloses a two-way remote control device with a graphical user interface to control various audio/video devices in an interconnected multimedia system. Although the remote control unit of **VAN RYZIN** does include a “transceiver for transmitting and receiving control commands to/from multimedia components, which are displayed in the user-friendly format on a display of the remote control unit” (Abstract of **VAN RYZIN**), the **“user interface displays having associated control commands”** as recited in claim 1 of the instant application are not originally received from the the controllee electronic apparatus. Rather even this discription in the Abstract of **VAN RYZIN** only indicates that the control commands “are displayed in the user-friendly format on a display of the remote control unit” without indicating that “user interface displays” were sent “by a controllee electronic apparatus “ as recited in claim 1 of the instant application. Moreover, applicants respectfully assert that the command codes mentioned in the Abstract of **VAN RYZIN** are nothing more than the ID codes described in the specification of the application and in the claims of **VAN RYZIN**. Clearly, upon review of the specification the ID codes of **VAN RYZIN** are not **“user interface displays having associated control commands”** as recited in claim 1 of the instant application. Rather the ID codes of **VAN RYZIN** facilitate a look-up of command codes in cartridge 110 of the remote control unit 100.

Applicant respectfully notes that a remote control is generally intended to transmit control commands to the multimedia components it controls. However, the **VAN RYZIN** remote control unit 100 appears to also receive, via the transceiver 116, ID codes returned from the transceiver 132 in response to a status request originally transmitted by the transceiver 116. Applicant notes that the transceiver 116 of **VAN RYZIN** is a component of the remote control unit 100, however; the transceivers 132 and 136 of **VAN RYZIN** are not

“controllee electronic apparatus” as recited in claim 1 of the instant application, rather they are only a resource of an interconnected multimedia system.

Once the command codes are loaded from the cartridge, the **VAN RYZIN** user can scroll, select, browse, etc. through various menu items on the display, and activate desired functions on the **VAN RYZIN** multimedia system components by selecting the desired representation of that function on the display (Abstract of **VAN RYZIN**). In addition, the **VAN RYZIN** remote control unit may also communicate, through wireless transmission, with a personal computer and obtain information from remote or local databases for either controlling or enhancing the operation of the **VAN RYZIN** multimedia system devices (Abstract of **VAN RYZIN**). However, there is no indication that the remote or local databases of **VAN RYZIN** include “**user interface displays having associated control commands**” as recited in claim 1 of the instant application. Rather these databases appear to only provide control OR enhancements for the operation of the **VAN RYZIN** multimedia system devices, NOT for the remote control unit 100 as recited in claim 1 of the instant application.

More specifically, **VAN RYZIN** states:

The remote control unit 100 also includes a **transmitter/receiver** (transceiver 116) for performing the appropriate processing operations (modulating signals, etc.) **such that information carrying radio-frequency (RF) signals are transmitted/received to and from the remote control unit 100.** Namely, the transceiver 116 receives, via the antenna 102, the information carrying signals from another transceiver and passes the received information for processing by the microprocessor 112.

(Col. 3, line 66 – Col. 4, line 10)

VAN RYZIN also indicates that the transceiver 116 is intended to receive status information, such as ID codes that can be used to obtain specific instructions from the cartridge 110. **VAN RYZIN** further states:

When the user turns the power on in the remote control unit 100, the microprocessor 112 executes an initializing routine. The graphical display 104 on the remote control unit 100 is activated, and **the transceiver 116 sends a status request to the transceiver 132** connected to the system. The status

request queries each device in the multimedia system to identify itself by sending an ID code that is unique to that device. That is, each device in the multimedia system receives the status request and responds by transmitting its own ID code via the serial control link and the transceiver 132.

When the ID codes returned from the transceiver 132 are received by the remote control unit 100 and the transceiver 116 in particular, the received information is supplied to the microprocessor 112 for appropriate processing. Namely, by executing specific instructions in the memory 114 as obtained from the cartridge 110 containing the specifications for the system components, the microprocessor 112 is operative to display graphical representations of each device on the display 104.

(Col. 4, line 59 – Col. 5, line 11)

Clearly, VAN RYZIN does not show “**sending ... user interface displays having associated control commands**” as recited in claim 1 of the instant application. Similar distinctive language is found in the other independent claims 26, 53, 78, and 90.

In fact, VAN RYZIN actually teaches away from the claimed methodology of the instant application by stating:

If the microprocessor 112 determines that one or more of the received ID codes does not have a corresponding device specification in the cartridge 110, an error message is displayed on the display 104 indicating by a graphical block representation that an unknown component is present in the system. In this situation, the user may update the information in the cartridge 110 by obtaining a new cartridge containing the specifications for all of the components in the system.

(Col. 5, lines 11 – 20)

According to the instant application, no such error message as indicated by VAN RYZIN would occur because the “corresponding device specification” required by VAN RYZIN is transmitted with the “**user interface displays having associated command codes**” so that a recognized device would already include the associated command codes. In many ways the differences between VAN RYZIN and the instant application (in accordance with the independent claims) are somewhat similar to the distinctions between receiving a Java applet (**user interface displays having associated command codes**) and making a database query (ID code for cartridge). Clearly both operations may eventually result in the

same program being activated, but more specific data is being communicated by the applet than the ID code.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

In “Claim Rejections – 35 USC § 103,” item 4 on page 14 of the above-identified final Office Action, claims 15, 29, 58 and 66 have been rejected as being obvious over **VAN RYZIN** in view of the Official Notice under 35 U.S.C. § 103(a). Applicant respectfully traverses this rejection. The Official Notice does not remedy the above discussed deficiencies of **VAN RYZIN**; therefore, Claims 15, 29, 58 and 66 are patentable over **VAN RYZIN**, even in view of the Official Notice.

Furthermore, it appears that claims 15, 29, 58 and 66 are rejected based on facts within the personal knowledge of the Examiner. Thus, according to 37 C.F.R. § 1.104(d)(2), Applicant hereby requests an affidavit from the Examiner supporting the assertions on which this rejection is based.

Moreover, even assuming *arguendo* that the Official Notice remedied the above discussed deficiencies of **VAN RYZIN**, in establishing a *prima facie* case of obviousness, it is incumbent upon the Examiner to provide a reason why one of ordinary skill in the art would have been led to modify a prior art reference or to combine reference teachings to arrive at the claimed invention, which is not accomplished in the instant case. Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Int. 1985). To this end, the requisite motivation must stem from some teaching, suggestion, or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art and not from the applicants’ disclosure. See, for example, Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1052, 5 USPQ2d 1434, 1439 (Fed. Cir. 1988), *cert. den.*, 488 U.S. 825 (1988).

The Office Action has not provided the requisite reason why one of ordinary skill in the art would have been led to modify **VAN RYZIN**’s teachings to arrive at the claimed invention. Further, the Examiner has not shown the requisite motivation from some teaching,

suggestion, or inference in **VAN RYZIN** or from knowledge available to those skilled in the art.

“Obviousness can not be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination”. In re Bond, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990). “Under Section 103 teachings of references can be combined **only** if there is some suggestion or incentive to do so.” ACS Hospital Systems, Inc. v. Montefiore Hospital et al., 221 USPQ 929, 933, 732 F.2d 1572 (Fed. Cir. 1984) (emphasis original). “Although a reference need not expressly teach that the disclosure contained therein should be combined with another, the showing of combinability, in whatever form, must nevertheless be ‘**clear and particular.**’” Winner Int’l Royalty Corp. v. Wang, 53 USPQ2d 1580, 1587, 202 F.3d 1340 (Fed. Cir. 2000) (emphasis added; citations omitted); Brown & Williamson Tobacco Corp. v. Philip Morris, Inc., 56 USPQ2d 1456, 1459 (Fed. Cir. Oct. 17, 2000). There is no “clear and particular” teaching or suggestion in **VAN RYZIN** to modify the remote control. In fact, as previously discussed **VAN RYZIN** actually teaches away from the instant application.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 1, 26, 53, 78, or 90. Claims 1, 26, 53, 78, and 90 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 1.

In the event the Examiner should still find any of the remaining claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

CONCLUSION

In view of the foregoing, reconsideration and allowance of claims 1-3, 9-12, 14, 15, 18, 20, 23, 26-29, 35, 38-40, 43-46, 50, 53, 56-59, 62, 68, 70, 72, 74, 76-78, 82-86, 88-90, 93, 96 and 99 are solicited. Accordingly, a Notice of Allowance is respectfully requested.

If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 407-1509. If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,
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Date: 10/11/2005

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